



August 3, 1999

Mr. Habib H. Erkan, Jr.
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-2193

Dear Mr. Erkan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126520.

The City of San Antonio (the "city") received a request for "a copy of the bid proposals, exception sheets, and any other information in the bid packet from the other companies that placed bids" in response to Invitation for Bid No. 99-058. You state that you contacted the bidders and only two, Wheeled Coach Industries, Inc. ("Wheeled Coach") and AA Emergency Ambulance Sales, Inc. ("AA Emergency"), objected to the disclosure of their bids. You ask whether the bid proposals of these companies may be made public. We assume that you have released all other responsive information to the requestor.


Since the property rights of third parties may be implicated by the release of the bid proposals, this office notified Wheeled Coach and AA Emergency about the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). A representative of AA Emergency responded to the notice by stating that his company has "no privacy or property interest" in its bid proposal. Thus, the city must disclose AA Emergency's bid proposal.

Wheeled Coach did not respond to our notice. Therefore, we have no basis to conclude that Wheeled Coach's bid proposal is excepted from disclosure. *See Birnbaum v. Alliance of Am. Insurers*, 1999 WL 314976 (Tex. App.--Austin May 20, 1999, no pet. h.) (section 552.110 excepts from disclosure commercial or financial information obtained from a person and

privileged or confidential by statute or judicial decision); Open Records Decision Nos. 552 at 5 (1990) (section 552.110 requires a party to establish, by a *prima facie* case, that information is a trade secret), 542 at 3 (1990). For this reason, the city must also disclose Wheeled Coach's bid proposal.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,


Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 126520

Encl. Submitted documents

cc: Mr. Arthur J. (Art) Seely, Jr.
Rescue Safety Products, Inc.
220 West Parkway
Denton, Texas 76201
(w/o enclosures)

Mr. Billy R. Reinecke
AA Emergency Ambulance Sales, Inc.
P.O. Box 920952
Houston, Texas 77292
(w/o enclosures)

Mr. Gaspar Garcia
Wheeled Coach Industries, Inc.
2737 North Forsyth Road
Winter Park, Florida 32792
(w/o enclosures)